



The Attorney General of Texas

September 23, 1981

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An Equal Opportunity/
Affirmative Action Employer

W. Kent Johnson
Chief of Legal Services
Texas Department of Mental Health
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P.O. Box 12668
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Open Records Decision No. 281

Re: Availability under Open
Records Act of reports
relating to dismissal of
state employees

Dear Mr. Johnson:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the public availability of reports relating to the dismissal of a former employee of the Texas Department of Mental Health and Mental Retardation. Subsequent to his dismissal, the employee filed a complaint with the federal Equal Employment Opportunity Commission [hereinafter EEOC]. You suggest that all information related to the complaint is excepted by sections 3(a)(3) and 3(a)(11) of the Open Records Act.

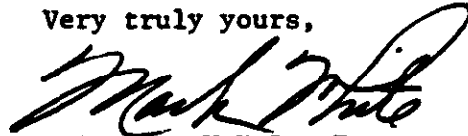
Section 3(a)(3) excepts:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

The complaint in this case is still pending before the EEOC. You indicate that there is a reasonable likelihood that suit will be filed. Both the attorney for the department and the assistant attorney general who represents the department have determined that the information should be withheld from disclosure under section 3(a)(3). Since the complaint is presently pending before the EEOC, we believe that this determination is reasonable. Open Records Decision Nos. 270, 266 (1981). We have examined this material and have determined that it is relevant to the potential litigation. Accordingly, it is our decision that all the information submitted to

us is excepted from disclosure at this time by section 3(a)(3) of the Open Records Act. In view of this determination, we need not address the applicability of section 3(a)(11).

Very truly yours,



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